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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,032	10/06/2000	Christopher S. Nolan	420-002	1056
J. Ralph King King and Schickli PLLC 247 North Broadway Lexington, KY 40507				
7590 02/24/2009				
EXAMINER				
FOX, CHARLES A				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
02/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/684,032

Applicant(s)

NOLAN, CHRISTOPHER S.

Examiner

CHARLES A. FOX

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12 and 21-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 8, 22, 24, 25, 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meier et al. Regarding claims 1, 22, 24, 25 and 26 Meier et al. US 5,183,176 discloses a liner for a container comprising:

four elongated panels of impervious film adapted to substantially match the elongated sides, top and bottom of a container;

first and second end panels to complete said liner;

an access opening along one side of said liner, said opening substantially the same height of the elongate side panel and is adapted to loading and unloading cargo to and from the container which the liner is placed into;

a closure for the liner to seal against moisture to protect the cargo.

Regarding claim 5 Meier et al. also disclose the opening as being at the approximate mid point of the elongated panel.

Regarding claims 7 and 8 Meier et al. also disclose providing folds in the liner to allow for expansion of the liner from a folded state to a fully extended state that matches the interior of a container, wherein said joint are heat sealed welds.

Claim Rejections - 35 USC § 103

Claims 2-4,12,23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al. as applied to claims 1,23 and 25 above, and further in view of Krein et al. Meier et al. teaches the limitations of claim 1,22 and 25 as above, they further teach heat welding the seams of their liner to form a unitary structure. They do not teach providing a tube about the access opening to the liner. Krein et al. US 5,028,197 teaches a liner for a container comprising:

- an opening in one side of the liner for loading and unloading cargo;

- a source of air for erecting the liner within a container;

- said opening having a tube that extends from said opening to form a passage from loading and unloading cargo;

wherein said tube may be fastened by tying and tucked into said container for transport after loading. See figure 6. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Meier et al. with a tube as taught by Krein et al. in order to provide a closure for the liner that is out of the way during loading and unloading while still providing for a moisture barrier when sealed.

Claims 6,21,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al. as applied to claims 1 and 25 above, and further in view of Fell et al. Meier et al. teaches the limitations of claims 1 and 25 as above, they do not teach a second opening in the second elongated side panel. Fell et al. US 3,951,284 teaches a container with a liner wherein the liner has openings with at least one tube wherein the openings in the liner match the openings in the container. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide

the liner taught by Meier et al. with openings at each door to the container as taught by Fell et al. in order to allow each door to the container to be utilized thereby increasing the speed of loading and unloading the container.

Response to Amendment

The amendments to the claims filed on December 4, 2008 have been entered into the record.

Response to Arguments

Applicant's arguments filed December 4, 2008, with respect to the 35 U.S.C. 112 second paragraph rejections of claims 22-29 have been fully considered and are persuasive. The previous 35 U.S.C. 112 rejections of claims 22-29 has been withdrawn. Regarding the relative height of the container opening based upon applicant admission that determining its height would be obvious to an ordinary craftsman for various different sized openings. It would follow that an ordinary craftsman would be able to size the opening to match the door to any container, as both require measuring the same opening. The other rejections have been rendered moot via amendments to the claims.

Applicant's arguments filed December 4, 2008 have been fully considered but they are not persuasive. Regarding the rejections under 102 in view of Meier et al. the arguments are not convincing. When viewing the container taught by Meier et al. as shown in figure 1 it clearly matches that as claimed in the instant invention. While they may orient the device 90 degrees to applicant invention they are the same device. If the Meier container is placed onto a land vehicle and side 4 is near the front of the vehicle it

now meets the limitations of the claim as written. As such the relative name of each side of the device is not patentable unless it can be shown that an ordinary craftsman would not be able to move the opening in the liner to a different wall if the opening was moved. The applicant has already stated that an ordinary craftsman can size the opening. The naming of front and side walls is arbitrary in a container as shown as it will operate exactly the same no matter what any particular wall is called. Further Meier et al. teach their liner being used with containers having different technical features than the liner exemplified in their drawings. Further claim 1 of the Meier et al. reference recites structure very similar to the instant claim 1 absent any particular location for the opening other than matching a container opening. Further figure 1 clearly shows the opening of the liner as being substantially the same as the opening in the container. The claims are hereby finally rejected.

Regarding the rejections of claims 2-4,23 and 29 applicant argues their allowance based on their dependency, this is not persuasive for the reasons stated directly above.

Regarding the rejections of claims 6,21,27 and 28 under Meier et al. and Fell et al. the applicant is incorrect. The Meier et al. reference clearly shows that different containers can be used with their liner. The exemplified liner has one opening, but they clearly anticipated other styles of containers being used. Fell et al. teach such a container as the examiner has held throughout prosecution and which is concurred by the Board of patent appeals and Interferences. As such all pending claims are hereby made final.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES A. FOX whose telephone number is (571)272-6923. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHARLES A. FOX/
Primary Examiner, Art Unit 3652